

¶[either generally or in respect of any one or more of the offences for which he is tried] ; and upon such withdrawal,—

(a) if it is made before a charge has been framed, the accused shall be discharged ¶[in respect of such offence or offences] ;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted ¶[in respect of such offence or offences].

Permission
to conduct
prosecution.

495. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the ¶[State] Government] in this behalf * * * but no person, other than the Advocate General, Standing Council, Government Solicitor, Public Prosecutor or other Officer generally or specially empowered by the ¶[State] Government] in this behalf, shall be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

In what cases
bail to be
taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail : Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided :

¶[Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4) or section 117, sub-section (3).]

When bail
may be taken
in case of
non-bailable
offence.

497. (1) When any person accused of ¶[or suspected of the commission of] any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of ¶[an offence punishable with death or ¶[imprisonment] for life] :

¹ Inserted by Act 18 of 1923, s. 134.

² Substituted by the A.O. 1937 for "L. G."

³ Substituted by the A.O. 1950 for "Provincial".

⁴ The words "with the previous sanction of the G.G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁵ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 135.

⁶ Inserted by Act 26 of 1955, s. 94(a) (i).

⁷ Substituted by s. 136 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "the offence of which he is accused".

⁸ Substituted by Act 26 of 1955, s. 94(a) (ii), for "transportation".

¹[Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.]

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed ²[a non-bailable offence]; but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

³[(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

³[(3A) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.]

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody on the execution by him of a bond without sureties for his appearance to hear judgment delivered.]

⁴[(5) A High Court or Court of Session and in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.]

498. ⁵[(1)] The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police officer or Magistrate be reduced.

Power to direct admission to bail or reduction of bail.

⁶[(2) A High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody.]

499. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Bond of accused and sureties.

¹ Inserted by Act 18 of 1923, s. 136.

² Substituted by s. 136, *ibid.*, for "such offence".

³ Inserted by Act 26 of 1955, s. 94 (b).

³ Substituted by Act 18 of 1923, s. 136, for the original sub-section (3).

⁴ Section 498 was renumbered as sub-section (1) of that section by Act 26 of 1955, s. 95.

⁵ Inserted, *ibid.*, s. 95

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

[(3) For the purpose of determining whether the sureties are sufficient, the Court may, if it so thinks fit, accept affidavits in proof of the facts contained therein relating to the sufficiency of the sureties or may make such further inquiry as it deems necessary.]

Discharge
from
custody.

500. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to
order
sufficient
bail when
that first
taken is
insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do may commit him to jail.

Discharge of
sureties.

502. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicant, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attend-
ance of
witness may
be dispensed
with and
commission
issued.

²[503. (1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a High Court, Court of Session, ³[or any Magistrate] that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court or Magistrate may [dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter :

¹ Inserted by Act 26 of 1955, s. 96.

² Ss. 503 to 508A were substituted by Act 1 of 1951, s. 21, for the original ss. 503 to 508A.

³ Substituted by Act 26 of 1955, s. 97 (a), for "District Magistrate or Presidency Magistrate".